MEDICAL-LEGAL PARTNERSHIPS IN MISSISSIPPI: A MODEL TO IMPROVE ACCESS TO JUSTICE

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INTRODUCTION

Equal access to justice is a fundamental need in Mississippi. Yet as the current economic recession has thrown more Mississippians into financially precarious situations, the availability of legal services for low-income clients has steadily declined due to continual budget cuts.[1] Mississippi must embrace innovative legal service delivery models in order to provide better access to legal services and better legal outcomes for clients. This Article proposes the concept of Medical-Legal Partnerships (MLP) as a comprehensive legal and health services delivery model that can improve access to justice for vulnerable Mississippians. While over two hundred MLPs are currently operating throughout the United States, there are none in Mississippi.[2]

Part I of this Article describes some of the barriers to justice in Mississippi and the need for legal services interventions among vulnerable populations with civil legal problems. Part II explains the concept of a MLP and illustrates the ways in which this model can help increase early intervention for legal services programs, resulting in better access to justice for Mississippians. Part III concludes by outlining opportunities and strategies for implementation of MLPs in Mississippi.

I. THE "JUSTICE GAP" IN MISSISSIPPI

A. Mississippi's Need for Legal Services

There is a great need for legal services in Mississippi. Civil legal matters can quickly become debilitating problems for people living in poverty,[3] and Mississippi is one of the poorest states in the nation. The percentage of people living below the poverty line

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[1] *See* Bonnie Allen, *Report of Public Hearings on the Unmet Civil Legal Needs of Low-Income Mississippians*, MISS. ACCESS TO JUSTICE COMM'N 1, 1-2 (2009), http://www.msatjc.com/pdf/New%20ATJ%20Report.pdf.

[2] *The Movement*, NAT'L CTR. FOR MED. LEGAL P'SHIP, http://www.medical-legalpartnership.org/mlp-network.

[3] Allen, *supra* note 1, at 1 (finding that "[o]ne of the most debilitating problems for poor people and communities is the lack of access to lawyers and the legal system in civil matters impacting fundamental human needs"); Debra Gardner & John Pollock, *Civil Right to Counsel's Relationship to Antipoverty Advocacy-Further Reflections*, 45 CLEARINGHOUSE REV. 150, 153 (2011) (stating that "providing counsel for people who face legal harm . . . will itself help counter the causes and effects of poverty").

in Mississippi is the highest in the country at 21%,[4] compared to a national average of 13%.[5] Its per capita income is approximately $19,900; less than 80% of the population has a high school diploma; and only 19% of the population has a college degree.[6] As a state with widespread poverty, Mississippi cannot afford not to ensure access to justice for all. Often, low-income individuals and families require adequate access to the civil legal system to ensure that the most basic human needs—such as housing, food security, and health—are met.[7]

Unaddressed civil legal needs also engender severe economic consequences to individual clients and communities as unmet legal needs often result in the loss of homes, healthcare, and other benefits.[8] Civil-legal problems can also have an adverse effect on health,[9] which further compounds Mississippi's already poor performance on basic health indicators, including the highest rates of hypertension, obesity, diabetes, and HIV/AIDS.[10] Ensuring access to justice for all Mississippians is a key aspect of

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[4] Alemayehu Bishaw & Suzanne Macartney, *Poverty: 2008 and 2009*, 5 (2010), http://www.census.gov/prod/2010pubs/acsbr09-1.pdf.

[5] U.S. Census Bureau, *State & County Quick Facts: Mississippi*, http://quickfacts.census.gov/qfd/states/28000.html (last visited Feb. 2, 2013).

[6] *Id.*

[7] *See, e.g.*, Gardner & Pollock, *supra* note 3, at 153 (noting that many unmet civil legal needs are concentrated around "basic human needs cases such as shelter, sustenance, and health"); Andrew Scherer, *Securing a Civil Right to Counsel: The Importance of Collaborating*, 30 N.Y.U. REV. L. & SOC. CHANGE 675, 676 (2006) (noting that, "important and fundamental human needs are routinely put in jeopardy in civil legal proceedings"); Helaine M. Barnett, *Justice for All: Are We Fulfilling the Pledge?*, 41 IDAHO L. REV. 403, 407 (2005) ("We know that the poor seek legal redress for essential human needs: protection from abusive relationships, habitable housing, access to necessary health care, disability payments to help lead independent lives, child support and custody actions, relief from financial exploitation, and more.").

[8] *See* Gardner & Pollock, *supra* note 3, at 153.

[9] Laura K. Abel & Susan Vignola, *Economic and Other Benefits Associated with the Provision of Civil Legal Aid*, 9 SEATTLE J. SOC. JUST. 139, 154 (2010) (stating that "civil legal problems can have serious health consequences").

[10] *See, e.g.*, *Chronic Disease Fact Sheet*, MISS. STATE DEP'T OF HEALTH, http://msdh.ms.gov/msdhsite/_static/43,1160,91,214.html (last visited Feb. 2, 2013). "Mississippi has the highest rate of obesity in the nation. In 2007, 36% of adult Mississippians were overweight (BMI was between 25 and 30); 33% were obese (BMI was 30 or more)"; "Mississippi's [Cardio Vascular Disease] mortality rate is the highest in the nation, with a mortality rate in 2005 that was 25% higher than the U.S. as a whole." *Id.* Mississippi ranked as the 7th highest state in the nation for HIV/AIDS prevalence in 2010. STD/HIV Office, *Sexually Transmitted Diseases: 2011 Fact Sheet*, MISS. STATE DEP'T OF HEALTH, http://msdh.ms.gov/msdhsite/_static/resources/4695.pdf.

alleviating poverty in general,[11] and thus is an important goal for the state.

B. Barriers to Justice

In 2009, Mississippi joined a growing access to justice movement by establishing the Mississippi Access to Justice Commission.[12] The Commission's directive was to investigate and document barriers that prevent low-income people and communities from accessing the civil legal system.[13] The Commission's ultimate goal is to develop initiatives that expand access to civil-legal services in order to address the "justice gap,"[14] which is the difference between the unmet legal needs of vulnerable populations and a state's ability to meet those needs.[15] Data produced by the Legal Services Corporation (LSC) documents a large justice gap on a national level: for every client LSC accepts, they turn one away due to insufficient resources.[16]

Mississippi's own lack of available legal services presents a considerable access to justice barrier in this state as well.

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[11] *See* Gardner & Pollock, *supra* note 3, at 152-53 (discussing how access to justice through the right to an attorney is "an antipoverty strategy in its own right"); Barnett, *supra* note 7, at 417 (noting that "legal assistance is critical to the clients' economic and personal survival and that of their families as well").

[12] *In re* Establishing the Miss. Access to Justice Comm'n, No. 89-R-99032-SCT (Miss. June 28, 2006) (en banc), *available at* http://courts.ms.gov/images/Opinions/133134.pdf. *See also* Alan W. Houseman, *The Future of Civil Legal Aid: A National Perspective*, 10 D.C. L. REV. 35, 61 (2007) (describing access to justice commissions as having "a broad charge to engage in ongoing assessment of the civil legal needs of low-income people in the state and to develop, coordinate, and oversee initiatives to respond to those needs").

[13] *In re* Establishing the Miss. Access to Justice Comm'n, No. 89-R-99032-SCT (Miss. June 28, 2006) (en banc), *available at* http://courts.ms.gov/images/Opinions/133134.pdf.

[14] *See* Allen, *supra* note 1, at 2.

[15] *See* Jeffrey Selbin et al., *Service Delivery, Resource Allocation, and Access to Justice: Greiner and Pattanayak and the Research Imperative*, 122 YALE L.J. ONLINE 45, 58 (2012), *available at* http://yalelawjournal.org/2012/07/30/selbin-charn-alfieri&wizner.html; *see also* LEGAL SERVICES CORP., DOCUMENTING THE JUSTICE GAP IN AMERICA: THE CURRENT UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 5-6 (2009) [hereinafter "JUSTICE GAP"] (explaining the justice gap as the "level of legal assistance available and the level that is necessary to meet the need of low-income Americans").

[16] *See* JUSTICE GAP, *supra* note 15, at 1. Testimony given at a Mississippi Access to Justice Hearing given by a County Sherriff lamented that "[l]egal [s]ervices only serves about half the people that his office refers to them . . . ." Allen, *supra* note 1, at 23.

Mississippi's Legal Services Program has been grossly underfunded,[17] and the state has consistently been ranked as one of the lowest in overall funding per person eligible for legal services.[18] In 2011 Mississippi's LSC had enough funding to spend approximately $10.38 per eligible low-income individual.[19] Legal scholars and jurists have shown that an inability to access affordable legal services is a barrier to justice, as pro se litigants are at a severe disadvantage in our complex judicial system.[20] As the availability of legal services has decreased, Mississippi has

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[17] According to the Mississippi Access to Justice Commission report, LSC dollars dropped about fifty percent between 1980 and 2009. Allen, *supra* note 1, at 2. For an explanation of LSC's history, establishment, and funding restrictions, see Houseman, *supra* note 12, at 36-40.

[18] *See* Allen, *supra* note 1, at 5 (noting that in 2009 Mississippi ranked 49th in overall legal services per person). Mississippi currently has two legal-services programs operating in the state: Mississippi Center for Legal Services, covering the southern and central parts of the state, and North Mississippi Rural Legal Services covering the northern parts of Mississippi. *Id.* Mississippi has other non-LSC funded non-profit organizations providing free and low cost legal services, such as the Mississippi Volunteer Lawyer's Program, the Mississippi Center for Justice, Mission First Legal Aid Clinic, Mississippi Youth Justice Project, Mississippi ACLU, Mississippi Worker's Center for Human Rights, Gulf Coast Fair Housing Center, Catholic Charities, Southern Poverty Law Center, and law school legal aid clinics. *Id* at 6.

[19] *See FACT BOOK 2011*, LEGAL SERVICES CORP. 1, 4-5 (2012), http://grants.lsc.gov/sites/default/files/Grants/RIN/Grantee_Data/fb11010101.pdf. *See also* Karen A. Lash & Reilly Morse, *Mitigating Disaster: Lessons from Mississippi*, 77 MISS. L.J. 895, 897 (2008) (in 2008 Mississippi had "one legal aid attorney for every 18,266 poverty-level Mississippians—compared to one for every 6,861 nationally").

[20] *See, e.g.*, *Access to Justice—Civil Right to Counsel—California Establishes Pilot Programs to Expand Access to Counsel for Low-Income Parties*, 123 HARV. L. REV. 1532, 1532 (2010) [hereinafter *Access to Justice*]; Selbin et al., *supra* note 15, at 49 (noting that "most lawyers both inside and outside the academy remain certain that representation of indigent clients in civil matters is fundamental to the pursuit of justice"); Daniel C.W. Lang, Note, *Utilizing Nonlawyer Advocates to Bridge the Justice Gap in America*, 17 WIDENER L. REV. 289, 297 (2011) (listing various commentaries on the disadvantage of pro se litigants in courtrooms); *Task Force on Access to Civil Justice Resolution*, AMERICAN BAR ASSOCIATION 2 (2006), http://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/ls_sclaid_06A112A.authcheckdam.pdf.

seen a rise in the number of pro se litigants,[21] which in turn increases the burden on the courts themselves.[22]

Transportation to and from legal services offices is also a problem in a state such as Mississippi, in which a large portion of the population lives in rural areas.[23] For example, there are only ten Legal Services offices in Mississippi serving eighty-two counties with only thirty-one staff attorneys.[24] Many of the most rural counties in Mississippi do not have any legal services or other social-services organizations located within the county at all.[25] Low-income clients often do not own personal vehicles and there is little public transit available in many rural counties. Thus, the burden of transportation to a legal services office is itself a barrier to justice.

Perhaps the greatest barrier to justice in Mississippi, as well as many legal services offices throughout the country, is the emergency-room-triage manner in which LSC organizations are often forced to take clients and practice law. The current legal services delivery model in Mississippi is a reactive model that triages legal referrals often on an emergency basis, or uses scarce legal resources on only high-impact cases.[26] During testimony in front of the Mississippi Access to Justice Commission, one advocate aptly described a typical legal services referral system in which clients facing a legal crisis are referred by shelters,

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[21] *See* Allen, *supra* note 1, at 10, 18 (noting that "Chancery Court Judge Margaret Alfonzo testified that the level of litigants without counsel is of crisis proportion in the chancery courts" and that "Chancery Court Judge Dorothy Colom commented that . . . the number of *pro se* litigants has more than doubled in the past 15 years").

[22] *Access to Justice*, supra note 20, at 1533 (explaining that "[o]ne of the most obvious symptoms of this [justice] gap was a large number of self-represented litigants, who were the source of increasing difficulties for judges, clerks, and even opposing counsel"). *See also* Allen, *supra* note 1, at 13 ("It is much more work for the judges when there is a *pro se* litigant, trying to strike a delicate balance between access to justice and practicing law.").

[23] Allen, *supra* note 1, at 38 (finding that "[m]any of the most rural counties in the state do not have [l]egal [s]ervices offices or other social services organizations"). *See also* Jean Turner Carter et al., *Bridging the Civil Justice Gap in Arkansas*, 33 U. ARK. LITTLE ROCK L. REV. 457, 459 (2011) (discussing similar problems of lack of transportation as an access to justice barrier in rural Arkansas).

[24] Allen, *supra* note 1, at 37.

[25] *Id.* at 38.

[26] *See* Allen, *supra* note 1, at 32 (discussing the Southern Poverty Law Center's Youth Justice Project approach to "decid[ing] which children to represent by looking at whether their cases fit into a larger systemic issue the Project is addressing").

hospitals, or the police.[27] Because legal services offices are understaffed and attorneys must triage cases that come in the door on an emergency basis, only certain cases are selected based on necessity, importance, or impact.[28] This triage system further widens the justice gap for low-income individuals whose civil legal matters are not addressed because they do not fit the above categories.[29] This system greatly reduces the overall number of legal claims that will be taken by legal services, and thus this service delivery method itself is a large barrier to equal access to justice for all Mississippians.

One of the primary factors which is driving the reactionary, triage system of LSCs in Mississippi, and around the nation, is the fact that many eligible people do not contact a lawyer before the legal issue becomes a legal crisis.[30] Legal scholars and studies have shown that one of the primary reasons that low-income individuals delay seeing an attorney for pressing civil legal matters is a lack of awareness. They are not aware that (1) the problems they face are legal in nature;[31] (2) they have legal rights and remedies they can enforce,[32] and (3) that there may be low-

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[27] *Id.* at 10 (testimony of advocate Harry Yost from the Northcutt Legal Clinic).

[28] *See, e.g.*, Abel & Vignola, *supra* note 9, at 157 ("[C]ivil legal aid programs can afford to represent only a small portion of the people needing representation . . . . Rather, cases are accepted based on criteria such as the chance of success of [sic] whether the case addresses an important legal principle.").

[29] David I. Schulman et al., *Public Health Legal Services: A New Vision*, 15 GEO. J. POVERTY LAW & POL'Y 729, 773 (2008) ("Few, if any, such [legal services] programs operate on a pure 'access to justice' model; instead, program staff focus their efforts on those matters which will affect the most persons in the most significant way."); Carter et al, *supra* note 23, at 459 ("[C]ivil legal aid providers must prioritize clients with the most critical legal needs. Case acceptance becomes an emergency room triage of legal problems, which creates access to justice gaps for many people.").

[30] *See* Marybeth Musumeci, *Augmenting Advocacy: Giving Voice to the Medical-Legal Partnership Model in Medicaid Proceedings and Beyond,* 44 U. MICH. J.L. REFORM 857, 891 (2011) (criticizing the idea of traditional legal services as a "battlefield triage model, where lawyers for poor people are reactive and move from crisis to crisis") (internal quotations omitted).

[31] *See, e.g.*, JUSTICE GAP, *supra* note 15, at Appendix C (describing that in one study, 73% of the households surveyed in Georgia with a legal problem stated they did not understand the problem was legal in nature); Monica A. Fennell, *Using State Legal Needs Studies to Increase Access to Justice for Low-Income Families*, 48 FAM. CT. REV. 619, 624 (2010) (discussing the results of a study in which almost ¼ of the participants did not contact a lawyer because they did not regard their problem as a legal issue).

[32] *See, e.g.*, Musumeci, *supra* note 30, at 893-94 (describing medical patients with civil legal problems who "do not realize that they have important [legal] rights that

cost or free legal services available to assist them.[33] Indeed, the findings of the Mississippi Access to Justice Commission echoed these same problems in Mississippi. Mississippi Supreme Court Justice Jess H. Dickinson remarked, "Many poor people don't know where to turn for legal help in the first place . . . . [T]here is no broad public awareness effort to reach poor people who [cannot] pay a lawyer."[34]

The fact that many low-income clients delay seeking legal assistance can have permanent negative consequences for their lives. As one attorney testified at the Mississippi Access to Justice hearings, sometimes clients delay seeing an attorney for so long that a limitations period has already run, or a contract has already been signed.[35] Sadly, as a result they are often "past the point of helping. . . . . the wolf is at the [client's] door ready to come through, and there is nothing [left] to do."[36] When a legal services delivery model is reactionary in nature and triages urgent legal problems, instead of proactively trying to prevent legal issues from becoming crises, there are many times when clients are unable to get the help they need.[37]

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they can seek to enforce"); JUSTICE GAP, *supra* note 15, at 10 (describing study results that found many people with legal problems "frequently do not understand that they need legal help").

[33] *See, e.g.*, JUSTICE GAP, *supra* note 15, at 10 (noting that "[p]eople with legal problems frequently do not know where to turn to obtain that [legal] help, or may not know they are eligible for legal aid"); Fennell, *supra* note 31, at 623 ("One of the basic barriers to obtaining legal assistance for low-income families is lack of awareness. Many of the state legal needs studies have found that low-income families simply do not know that free legal assistance might be available.").

[34] Press Release, Miss. Access to Justice Comm'n, Commission Begins Work to Improve Civil Legal Access for the Poor (Sept. 13, 2006), *available at* http://www.msatjc.com/press.asp. *See also* Allen, *supra* note 1, at 30 (testimony of Attorney Tara Walker of Mississippi Center for Legal Services, stating that "many people do not know [l]egal [s]ervices programs exist").

[35] *See* Allen, *supra* note 1, at 24.

[36] *Id.* (statement of pro bono attorney Joseph Kieronsk).

[37] Musumeci, *supra* note 30, at 887 (noting that in traditional legal services models, "lawyers are less prepared to act proactively because clients' problems are too far advanced by the time they obtain a lawyer").

II. MEDICAL-LEGAL PARTNERSHIPS AS AN ACCESS TO JUSTICE SOLUTION.

Due to the high demand for legal services and low supply of available legal resources, the Mississippi legal community must become more efficient and effective in our legal services delivery models. In order to increase access to justice for low-income Mississippians, attorneys and non-attorney professionals who serve vulnerable populations must work together to maximize the efficient use of scarce legal resources. Further, the method in which legal services are delivered must adapt in order to make these services more accessible, as studies have shown that with the current model many eligible clients are unaware that many of the challenges they face are legal in nature[38] or that there are attorneys available to help.[39]

The MLP is a comprehensive legal and health services delivery model that can make major strides in increasing access to justice in Mississippi. This Part explains the concept of an MLP and explains how it can improve access to justice. Part III then explores how an MLP may be practically implemented in Mississippi.

A. Defining Medical-Legal Partnerships

The MLP is a partnership in which physicians and legal services attorneys work together to address both the legal and health-related needs of their mutual patient/clients.[40] The areas in which health and legal needs intersect have been explained as the "social determinants of health," which are socio-economic circumstances that affect a patient's health and may be outside of a physician's ability to control, such as poverty, educational levels,

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[38] *Id.* at 893-94 (stating that "many patients do not identify the legal problems they are experiencing as legal problems"); Jeffrey Selbin & Mark Del Monte, *A Waiting Room of Their Own: The Family Care Network as a Model for Providing Gender-Specific Legal Services to Women with HIV*, 5 DUKE J. GENDER L. & POL'Y 103, 117 (1998) (explaining that often patients "do not identify their needs as legal").

[39] *See supra* note 33.

[40] *See* Pamela C. Tames et al., *Medical-Legal Partnership: Evolution or Revolution*, 45 CLEARINGHOUSE REV. 124, 130 (2011) (explaining that "MLP joins the legal and health care professions to improve the health and wellbeing of vulnerable populations").

employment opportunities, and discrimination.[41] These social determinants may not be within the traditional parameters of the health care profession to treat, but may have a legal remedy, which is where an attorney can help.[42] Both physicians and attorneys have endorsed the MLP as an innovative and effective model for delivering patient/centered, holistic health and legal services.[43]

The MLP model was developed with the understanding that civil-legal problems can directly affect a patient's health, and therefore, health can be improved by employing the expertise of an attorney to address these issues.[44] Just as physicians refer patients with heart problems to a cardiologist, physicians can refer patients to legal services when the doctor identifies an issue that can be resolved with legal expertise.[45]

The first formal MLP was established in 1993 when the chairman of the Pediatrics Department at Boston University School of Medicine, Dr. Barry Zuckerman, hired a lawyer to work

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[41] *Id.* at 139 (defining social determinants of health as "nonmedical conditions that affect health"); Elizabeth Tobin Tyler, *Allies Not Adversaries: Teaching Collaboration To The Next Generation Of Doctors And Lawyers To Address Social Inequality*, 11 J. HEALTH CARE L. & POL'Y 249, 258 (2008) (noting the correlation between health outcomes and "social determinants such as poverty and the lack of access to education and medical care") (citing U.S. DEP'T OF HEALTH & HUMAN SERVS., HEALTHY PEOPLE 2010: UNDERSTANDING AND IMPROVING HEALTH 12 (2d ed. Nov. 2000)); Alexander R. Green et al., *Integrating Social Factors into Cross-Cultural Medical Education*, 77 ACAD. MED. 193, 193 (2002) ("Lower socioeconomic status is arguably one of the most powerful single contributors to premature morbidity and mortality in the United States . . . .").

[42] *See* Tames et al., *supra* note 40, at 139 (explaining that social determinants of health are more likely to be treated when "health care providers have a legal team to help resolve such problems").

[43] *See Resolution in Support of Medical-Legal Partnerships*, A.B.A. HEALTH LAW SEC. 2 (2007), http://www.americanbar.org/content/dam/aba/migrated/legalservices/probono/medlegal/docs/120a.authcheckdam.pdf ("Typically, a low-income patient who is referred by a health care provider to a lawyer has multiple unmet legal needs that involve socio-economic problems that legal assistance can help to resolve."); *see also AMA Adopts New Policies During Final Day of Annual Meeting*, AMER. MED. ASSOC. (June 15, 2012), http://www.ama-assn.org/ama/pub/news/news/2010-new-policies-page?.

[44] *See* Ellen Cohen et al., *Medical-Legal Partnership: Collaborating with Lawyers to Identify and Address Health Disparities*, 25 J. OF GEN. INTERNAL MED. 136, 139 (2010) (discussing the fact that "lawyers can 'treat' or solve complicated social issues" that affect a patient's health).

[45] *See* Musumeci, *supra* note 30, at 886 (noting that "health can be improved by non-medical solutions").

directly with him to treat his patients' cases.[46] Dr. Zuckerman was repeatedly treating patients who lived in substandard housing and environments that caused their health problems to occur and relapse.[47] As Jane R. Wettach, Director of the Children's Law Clinic at Duke University School of Law, explained,

> [Dr. Zuckerman] treated patients for malnutrition at the same time the child's parents had been denied food stamps. He treated patients for asthma who lived in squalid rental housing. He treated patients with Attention Deficit Hyperactivity Disorder (ADHD) who were unable to obtain special education services at school. Ultimately recognizing that his patients were facing legal problems, he hired an attorney . . . to join the hospital clinical team and represent patients.[48]

Dr. Zuckerman determined that the health of his patients would not improve without the intervention of a lawyer to remedy these social determinants of health, and thus the first formal MLP was established.[49] The MLP model has since flourished and as of this year there are more than 200 MLPs across the United States and Canada in which lawyers provide legal services in a variety of practice areas such as family medicine, pediatrics, oncology, HIV/AIDS, geriatrics, and internal medicine.[50] In 2005, the National Center for Medical-Legal Partnership was established through support from the W.K. Kellogg and Robert Wood Johnson Foundations,[51] and has recently announced that it will relocate its headquarters to the Hirsh Health Law and Policy Program at the

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[46] *See* Tames et al., *supra* note 40, at 124.

[47] *See* Barry Zuckerman et al., *Why Pediatricians Need Lawyers to Keep Children Healthy*, 114 PEDIATRICS 224, 224 (2004).

[48] Jane R. Wettach, *The Law School Clinic as a Partner in a Medical-Legal Partnership*, 75 TENN. L. REV. 305, 306-07 (2008) (internal citations omitted).

[49] *See* Zuckerman et al., *supra* note 47, at 224.

[50] Tames et al., *supra* note 40, at 124; Amy Killelea, Note, *Collaborative Lawyering Meets Collaborative Doctoring: How a Multidisciplinary Partnership for HIV/AIDS Services Can Improve Outcomes for the Marginalized Sick*, 16 GEO. J. POVERTY LAW & POL'Y 413, 421 (2009).

[51] Tames et al., *supra* note 40, at 136.

George Washington University School of Public Health and Health Services.[52]

The MLP model generally consists of one medical center and one law practice, with each organization choosing a medical champion and a legal champion as directors of the partnership.[53] The legal director then trains the physicians on how to screen patients for potential civil legal problems,[54] using a tool developed for legal screenings called a "legal check-up."[55] Once a physician encounters a patient with legal needs, the patient is referred to the attorney for legal assistance.[56]

MLPs can take a variety of forms depending on the preferences and practicalities of each particular medical and legal services provider. For example, a legal services organization can act completely apart from the medical provider and simply send a "traveling lawyer" to the clinic on certain days to perform intakes and collect cases.[57] Or, the MLP could be a "multi-service center" in which there is a legal services department on staff at an existing medical facility.[58] Alternatively, the MLP can take a much more integrated "team approach" in which physicians, attorneys, and social services advocates regularly collaborate on the patient/client cases to determine the most effective solutions for each individual case.[59] In many MLPs lawyers are located on-site at the hospital or clinic, which facilitates effective relationship building among the professional partners and allows for effective collaboration on their mutual patient/client's cases.[60]

Ultimately, the partnership is a holistic approach to provide comprehensive, patient/centered, health and legal services for

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[52] Press Release, Nat'l Ctr. for Med.-Legal P'ship, National Center for Medical-Legal Partnership Moves to its New Home at George Washington Univ. (Jan. 16, 2013*) available* at http://www.medical-legalpartnership.org/news/national-center-for-medical-legal-partnership-moves-to-its-new-home-at-george-washington-univer.

[53] *See* Wettach, *supra* note 48, at 307.

[54] *Id.*

[55] *See* Killelea, *supra* note 50, at 420.

[56] *See* Wettach, *supra* note 48, at 307.

[57] *See* Killelea, *supra* note 50, at 420.

[58] *Id.* at 421. Whitman-Walker, a Washington D.C. based health services organization, embraces this model. *Id.*

[59] *Id.* at 421 (describing the "'team approach' in which lawyers, doctors, and social workers regularly collaborate to provide the most effective legal, medical, and social services interventions for a particular client").

[60] *See* Wettach, *supra* note 48, at 307.

vulnerable patients that helps to close the gap in health disparities and achieve better health outcomes.[61]

B. Medical-Legal Partnerships and Access to Justice

While there are many health-related benefits to MLPs, there are also benefits regarding access to justice and the resolution of civil legal problems. The MLP is an excellent legal services delivery model; as the American Bar Association explained, "[L]egal services organizations can extend the reach of their programs and the effectiveness of client representation by creating these partnerships with health care providers in their communities."[62] This Section discusses the benefits of MLPs to legal services providers, and explains why the MLP model enhances access to justice for low-income clients living in vulnerable populations.

i. Physicians' Offices are a Natural Point of Entry for Many Linked Services

One of the larger challenges outlined in the Mississippi Access to Justice Commission Report was the fact that many individuals who would be eligible for free legal assistance are not aware that their problems are legal in nature, or that there are attorneys available to assist them.[63] The MLP model addresses this problem by using physician's office visits as a new strategy for screening patients for legal problems and a new source of referrals to legal services.[64]

First, surveys have shown that some eligible legal services clients can feel uncomfortable seeking out attorneys for various reasons.[65] The MLP addresses this issue by bringing legal services to clients in their traditional healthcare settings where they are

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[61] *See* Tames et al., *supra* note 40, at 134 ("Under the MLP model, legal services providers also benefit from the combined power of the legal and health care professions.").

[62] *See Resolution in Support of Medical-Legal Partnerships*, *supra* note 43, at 4.

[63] *See supra* notes 31-34 and accompanying text. *See also* Allen, *supra* note 1, at 23 (discussing the need for increasing awareness of legal services in Mississippi).

[64] *See* Tames et al., *supra* note 40, at 138-39 (stating that MLPs are "a strategy for more efficient, effective service delivery").

[65] *See* Fennell, *supra* note 31, at 624 (noting that potential legal services clients felt that contacting an attorney was too difficult, whereas others found it too intimidating).

familiar and comfortable.[66] In fact, hospitals and health clinics are natural points of entry for patients into a variety of social services programs, including referrals to social workers, nutritional specialists, and psychologists.[67] Accordingly, studies have shown that the medical setting is also a key setting in which to screen and refer patients for legal services.[68]

Second, physicians are uniquely positioned to perform front line legal checkups because they are highly skilled in interviewing and screening patients for a variety of ailments and problems.[69] During medical checkups and evaluations, physicians and other medical professionals routinely identify how social determinants such as unsafe housing, inadequate nutrition, and poor access to healthcare contribute to a patient's preventable illnesses and poor health.[70] Further, many low-income patients will seek medical assistance from hospitals and medical clinics that serve vulnerable populations, but these same patients do not know to seek legal services. Therefore, having a physician perform a legal checkup and appropriate referral is an important strategy for linking patients to legal services who otherwise may never have made contact with an attorney.[71]

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[66] *See* Zuckerman et al., *supra* note 47, at 227 (explaining that "the health care setting is perceived as a safe and trustworthy environment where families can receive accurate information"); Randye Retkin et al., *Medical Legal Partnerships: A Key Strategy for Mitigating the Negative Health Impacts of the Recession*, 22 HEALTH LAWYER 29, 32 (2009) ("[O]bstacles like fear, mistrust, and lack of awareness of legal services can also be overcome if a trusted intermediary—such as a doctor, nurse, or social worker – directs the patient to an onsite lawyer."). *See also* Tames et al., *Evolution*, *supra* note 40, at 133 (noting that it is important for legal services to build bridges with important community resources such as health care institutions).

[67] *See* Zuckerman et al., *supra* note 47, at 226.

[68] *See* Musumeci, *supra* note 30, at 889; Tyler, *supra* note 41, at 254 (discussing Barry Zuckerman's observations that in terms of assisting low-income families with comprehensive services, "one of the first points of contact for poor families when a child is born is their pediatrician"). As physicians have traditionally referred patients to a variety of comprehensive social services, "[l]awyers represent a natural extension of this approach." Zuckerman et al., *supra* note 47, at 226.

[69] *See* Schulman et al., *supra* note 29, at 772 (explaining that physicians utilize "[a] respected methodology and common capacity for evaluation, screening, identification and treatment of a broad range of human problems").

[70] *Id.* at 771 ("Physicians are . . . in a unique position to set in motion advocacy that ensures the laws and policies protecting health are effectively implemented.").

[71] *See* Musumeci, *supra* note 30, at 894 ("[MLPs] present a valuable opportunity to reach clients who otherwise might not access a lawyer."); Lucas F. Caldwell-McMillan, *Medical-Legal Partnership Helps Suspended Kindergarten Students Receive Special*

ii. Preventive Legal Services Can Improve Legal Outcomes

As the Mississippi Access to Justice Commission Report found, another barrier to justice is the reactionary triage system of legal services organizations, which is caused in part by many low-income clients' delay in contacting an attorney for their civil-legal problems.[72] Since the current legal services delivery model in Mississippi is a reactive model that triages legal referrals, it is often forced only to select clients whose legal issues have become emergencies.[73] Accordingly, this limited service delivery model itself is a barrier to equal access to justice for all Mississippians. Further, a client's delay in seeking legal advice can result in important statutory deadlines passing before the attorney is contacted, in which case the client has lost any claim to valuable legal rights and remedies.[74] The MLP model can provide a solution to these problems by changing the nature of the legal services referral system from one of emergency triage into an early referral model for "preventive legal services."[75]

Traditional legal-service referrals come from emergency rooms, shelters, or social workers who share in triaging civil-legal problems which have become crises.[76] Physicians, on the other hand, are often an earlier point of contact for clients with civil legal needs than are shelters or emergency rooms, therefore attorneys participating in an MLP can intervene in civil legal problems "further upstream" and make contact with eligible

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Education Services, 45 CLEARINGHOUSE REV. 60, 62 (2011) (noting that clients in a special-education case would never have received legal assistance if not for the medical-legal partnership because their families were not aware that free legal assistance was available).

[72] *See supra* note 28-30 and accompanying text.

[73] *Id.*

[74] *See supra* notes 36-37 and accompanying text. *See also* Tyler, *supra* note 41, at 254. "Lawyers, particularly legal services lawyers, often despair that they come to a problem long after any legal solution can make a meaningful difference in a client's life. By working collaboratively with medical professionals, lawyers can practice 'preventive law.'" *Id.* (internal citations omitted).

[75] *See* Musumeci, *supra* note 30, at 887; Schulman et al., *supra* note 29, at 772 ("[C]urrently, most legal aid agencies rely on shelters, domestic violence advocates and other social service providers for referrals and shared triaging, embedding even a portion of the current legal delivery system within the clinical setting would mean that patients not yet connected to such legal need 'first responders' might mow be screened for legal advocacy and found eligible for legal services.").

[76] *See supra* note 27 and accompanying text.

clients before a legal problem becomes a crisis.[77] For example, the MLP preventive legal services model can allow an attorney to make contact with a potential client before an eviction or foreclosure notice arrives, or before a client loses a job due to a medical illness or disability.

The concept of preventive legal services is similar to the preventive medical care that physicians routinely offer their patients. Therefore, "[f]ront-line healthcare providers are uniquely situated to triage and screen for social determinants of health that are particularly responsive to preventive legal interventions."[78] Since MLPs link potential clients—who otherwise may not have contacted an attorney—to legal services through the screening of a physician, clients are generally referred to legal services before their legal problems become legal crises.[79] By preventing legal crises from occurring, MLPs allow attorneys to assist a greater number of low-income clients[80] and have more meaningful and long lasting legal assistance for the clients they serve.[81]

iii. One-Stop-Shop

The burden of transportation to legal-services offices is also a barrier to accessing justice in Mississippi, especially in the most rural counties of the state.[82] MLPs help alleviate the transportation burden by housing medical, legal, and other social-services programs all under one roof, in a "one-stop-shop" service

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[77] *See* Tames et al., *supra* note 40, at 134.

[78] *See* Schulman et al., *supra* note 29, at 779; Killelea, *supra* note 50, at 426 ("Just as a medical check-up is designed to spot potential medical problems before they metastasize into health emergencies, so too can legal check-ups spot potential legal problems before they become crises.").

[79] *See* Musumeci, *supra* note 30, at 887 ("In a medical-legal partnership, lawyers engage in preventive legal care by offering services to persons who are not yet in crisis . . . .") (internal quotations omitted).

[80] *See* Tames et al., *supra* note 40, at 134 (discussing the effect of MLPs preventive services approach as "reaching many more vulnerable patients than through the current practice model").

[81] *See* Selbin & Del Monte, *supra* note 38, at 125 ("In order to achieve a better legal outcome for clients and to reduce the stress of waiting until matters reach emergency proportions, the [legal services organization] has adopted what is called an 'early intervention' model of service provision."); Tyler, *supra* note 41, at 255 ("Catching problems early may make the lawyer's advocacy more meaningful and permanent.").

[82] *See supra* notes 23-25 and accompanying text.

delivery model.[83] When patient/clients can get both medical and legal services in one trip, they will be able to access all of the services they need without the oftentimes heavy burden of finding transportation to different locations.[84] This one-stop-shop legal services delivery model will enhance access to justice for low-income clients, especially those living in rural areas of Mississippi.

Another benefit to the MLP one-stop-shop model is the fact that patient/clients can benefit from the combined professional expertise of both attorneys and doctors.[85] For example, in an employment discrimination case for a client with a disability, the client's case can be much stronger with the cooperation and assistance of the client's treating physician who can help the attorney better understand the client's disability and request for reasonable accommodations.[86] The MLP offers the benefit of the combined expertise of legal and medical professionals to the patient/clients, and also enables doctors and lawyers to become more effective service providers themselves by collaborating on their joint patient/clients' cases.[87] Ultimately, the MLP is a model that provides better access to justice and better legal outcomes for clients.

III. OPPORTUNITIES FOR IMPLEMENTING MEDICAL-LEGAL PARTNERSHIPS IN MISSISSIPPI

As the Mississippi Access to Justice Commission Report concluded, in order to improve access to justice for low-income clients Mississippi needs stronger partnerships across organizations and innovations in our legal services delivery

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[83] Retkin et al., *supra* note 66, at 32 (noting that "transportation often presents such a barrier; making legal services available in the same location that clinical treatment is provided eliminates that problem"). *See also* Tyler, *supra* note 41, at 272 ("'One-stop-shops' of services including legal services, social services and case management have become popular in legal practices that focus on social justice.").

[84] Selbin & Del Monte, *supra* note 38, at 124 (stating that "'one-stop shopping'" is a major improvement over the decentralized service delivery system that existed prior").

[85] *See* Tames et al., *supra* note 40, at 134.

[86] *Id.* at 134-35 ("Individual client cases can be more powerful and more easily developed with the cooperation and collaboration of a physician who provides relevant records and testimony.").

[87] *See* Musumeci, *supra* note 30, at 899 ("[E]normous potential [has been] presented by lawyers, doctors, and other medical professionals working together on behalf of their mutual [patient/clients].").

systems.[88] Further, as the Commission explains, these systematic barriers to justice are "not the problem of the legal system alone."[89] The MLP model addresses these concerns by collaborating across professions and "transform[ing] the [current] delivery of legal services[] to a model that is proactive and collaborative, rather than reactionary and adversarial."[90] However, there have often been concerns among both professions that lead to barriers in implementing MLPs. This Part explores these concerns and provides suggestions and solutions for overcoming those barriers.

A. Partnerships Between Lawyers and Doctors

Unfortunately, tradition has shown that doctors and lawyers have not always had cooperative and friendly relationships.[91] Due to the rising costs of medical-malpractice litigation and recent statewide battle over tort reform, Mississippians are particularly sensitive to the often adversarial relationship between physicians and attorneys.[92] However, in a certain sense lawyers and doctors do have shared values when it comes to serving low-income clients in vulnerable, under-resourced communities.[93] Practitioners in MLPs have found that "the aspiration and obligation of lawyers and doctors to provide services to the poor . . . offer[s] the greatest potential for meaningful collaboration between the professions."[94] Physicians who care for low-income and vulnerable patients also want to treat the social determinants of health that affect their

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[88] *See* Allen, *supra* note 1, at 41.

[89] Press Release, Miss. Access to Justice Comm'n, Commission Begins Work to Improve Civil Legal Access for the Poor (Sept. 13, 2006), *available at* http://www.msatjc.com/press.asp.

[90] *See* Musumeci, *supra* note 30, at 885; *see also* Tames et al., *Evolution*, *supra* note 40, at 141 ("The legal community cannot be successful in meeting the legal needs of vulnerable low-income individuals and families without additional resources, partners, and strategies.").

[91] *See* Tyler, *supra* note 41, at 249 ("Stories of the antagonism between doctors and lawyers are deeply embedded in American culture.").

[92] *See* Stephen Moore, *Mississippi's Tort Reform Triumph*, WALL STREET JOURNAL (May 10, 2008), http://online.wsj.com/article/SB121037876256182167.html.

[93] Peter D. Jacobson & M. Gregg Bloche, Commentary, *Improving Relations Between Attorneys and Physicians*, 294 J. AMER. MED. ASSOC. 2083, 2084 (2005) ("Both professions have ethical aspirations and legal obligations to provide services to the community and individuals who cannot afford to pay them.").

[94] *See* Tyler, *supra* note 41, at 250; Tames et al., *supra* note 40, at 133.

patient's lives, and are therefore requesting more training in legal advocacy options for their patients.[95] To allay any further fears, when establishing the roles and responsibilities of the MLP through a memorandum of understanding or other contract, legal services providers and medical partners can agree up front and in writing that the attorneys will not take any adversarial action against medical providers for the duration of the partnership. Both the American Bar Association and American Medical Association have endorsed MLPs as effective partnerships for both professions and for the greater wellbeing of their mutual patient/clients.[96]

B. Confidentiality Rules: HIPPA and Rules of Professional Conduct

While MLPs have demonstrated that the legal and medical professions can successfully partner together to provide holistic and collaborative services to patients, practitioners have voiced concerns over their respective professional ethical responsibilities to their patient/clients.[97] One concern about the collaborative approach to patient/client care is fear of breaching the attorney's and physician's respective obligations to keep their patient/client's information confidential.[98] Privacy in both the legal and healthcare settings is extremely important so as to encourage clients and patients to be open and honest in their communications with their attorneys and doctors.[99] However, safeguards such as having patient/clients give their informed

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[95] Megan Sandel et al., *Medical-Legal Partnerships: Transforming Primary Care by Addressing the Legal Needs of Vulnerable Populations*, 29 HEALTH AFFAIRS 1697, 1701 (2010) ("Health care providers overwhelmingly replied that they would like more training in legal advocacy.").

[96] *See supra* note 43 and accompanying text.

[97] *See, e.g.*, Pamela Tames et al., Commentary, *The Lawyer Is In: Why Some Doctors Are Prescribing Legal Remedies for Their Patients, and How the Legal Profession Can Support this Effort*, 12 B.U. PUB. INT. L.J. 505, 510-27 (2003) [hereinafter Tames et al., *Lawyer*]; Killelea, *supra* note 50, at 444-45.

[98] Killelea, *supra* note 50, at 444-445.

[99] *See* Tyler, *supra* note 41, at 288 ("[B]oth the medical and legal professions have rules governing patient or client confidentiality"). *See also* MISS. RULES OF PROF'L CONDUCT R. 1.6 cmt. (2012) (explaining the beneficial effect of the attorney-client privilege on client representation).

consent for information-sharing can be put in place to ensure that the patient/client's rights are respected.[100]

For example, Mississippi Rule of Professional Conduct 1.6 states that "[a] lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, [or] the disclosure is impliedly authorized in order to carry out the representation."[101] Furthermore, the Rules of Professional Conduct also explain that, "'[i]nformed consent' denotes voluntary acceptance and agreement by a person of a proposed course of conduct after adequate information has been imparted to the person that allows the person to arrive at a decision."[102] Similarly, physicians and other medical staff can obtain informed consent from a patient before the physician even initiates a referral, as well as for future information sharing of the patient's personal health information, in order to avoid any violations of the federal Health Insurance Portability and Accountability Act (HIPPA).[103] Accordingly, with a patient/client's proper informed consent, a patient/client could voluntarily waive the attorney-client privilege and sign a HIPPA waiver in order to allow information sharing among professionals in a collaborative MLP.[104]

CONCLUSION

The Medical-Legal Partnership is an innovative legal services delivery model that can increase access to justice for vulnerable Mississippians. Whereas MLPs have become a well-known comprehensive services model at pediatric centers, they have also

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[100] Paula Galowitz, *Collaboration Between Lawyers and Social Workers: Re-Examining the Nature and Potential of the Relationship*, 67 FORDHAM L. REV. 2123, 2148 (1999) (explaining that a partnership can employ the use of "a written document, translated into the languages of the office's client population, that outlines for both the staff and the clients how and when information will be shared").

[101] MISS. RULES OF PROF'L CONDUCT R. 1.6(a) (2012); The American Bar Association Model Rules of Professional Conduct reflect the same. MODEL RULES OF PROF'L CONDUCT R. 1.6 (2008).

[102] MISS. RULES OF PROF'L CONDUCT: TERMINOLOGY (2012).

[103] 45 C.F.R. § 164.508 (2012) (describing the uses and disclosures for which an authorization is required under the HIPPA Privacy Rule).

[104] *See* Killelea, *supra* note 50, at 445 ("Adhering to a process where the client is informed of the potential for information sharing and where her consent for such cross-disciplinary communication is ascertained at the outset will avoid potential confidentiality breaches.").

flourished in practice areas such as family medicine, oncology, HIV/AIDS, geriatrics, and internal medicine.[105] In fact, because MLPs diagnose and treat the social determinants of a patient's health, MLP's are "relevant anywhere health interacts with poverty."[106] In 2011 alone, the 235 established MLPs throughout the United States provided direct legal assistance to more than 34,000 individuals and families.[107] This model focused on providing early interventions and preventive legal services can and should be established in Mississippi as well.

Since Mississippi has high rates of chronic and preventable diseases, there is ample opportunity for legal-services centers and medical clinics to form comprehensive, patient/centered MLPs.[108] For example, attorneys can partner with HIV/AIDS clinics to counsel newly diagnosed HIV-positive patients on their legal rights against stigma and discrimination, before adverse employment action is taken against them or a discriminatory housing eviction occurs.[109] Legal-services attorneys could form partnerships with mental-health providers in order to diagnose students with disabilities and refer them quickly to attorneys who can assist their parents in enforcing important legal rights to special education.[110] MLPs have been shown to be particularly effective in any practice area in which patient/clients are seeking Medicaid or Social Security Disability benefits because attorneys who understand the legal thresholds required for these programs can work directly with physicians to document the medical evidence necessary to succeed in an initial application or appeal.[111] In fact, studies have shown that MLPs that collaborate on Medicaid or Social Security Disability cases can actually help generate revenue for the hospitals or medical centers in which

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[105] *See supra* text accompanying note 50.

[106] *See* Killelea, *supra* note 50, at 459.

[107] *See* Tames et al., *supra* note 40, at 137.

[108] *See supra* note 10 and accompanying text.

[109] *See* Killelea, *supra* note 50, at 424-25. Killelea also notes that "[i]t has been well-documented in medical literature that provision of ancillary services, including legal services, to people living with HIV/AIDS improves health outcomes". *Id*. at 424.

[110] *See* Caldwell-McMillan, *supra* note 71, at 62-63.

[111] *See* Killelea, *supra* note 50, at 437-45; Selbin & Del Monte, *supra* note 38, at 127.

they are located, as they help to reimburse costs for patients approved by these benefit programs.[112]

The implementation of MLPs can be a powerful step in the direction of providing access to justice for low-income individuals and vulnerable populations in Mississippi. By combining the efforts of front-line service providers such as lawyers and doctors, Mississippi can begin turning the corner to ensuring healthier lives for many and justice for all.

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[112] *See* Musumeci, *supra* note 30, at 900 ("[I]n addition to improving patient health, medical-legal partnerships have been shown to improve the medical provider's bottom lines."). *See generally*, Rachael Knight, White Paper, *Health Care Recovery Dollars: A Sustainable Strategy for Medical-Legal Partnerships?* (Apr. 3, 2008), http://www.washingtonmlp.org/documents/439001Medical-Legal%20Partnership%20Health%20Care%20Recovery%20Dollars.pdf.